

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **RICK J. GOMEZ, M.D.**

4 License No. 33677

5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Case No. MD-11-1582A

**ORDER FOR LETTER OF  
REPRIMAND, PRACTICE  
RESTRICTION AND CONSENT TO THE  
SAME**

7 Rick J. Gomez, M.D. ("Respondent") elects to permanently waive any right to a  
8 hearing and appeal with respect to this Order for Letter of Reprimand and Practice  
9 Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to  
10 the entry of this Order by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of  
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 33677 for the practice of  
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-11-1582A after receiving a complaint  
17 regarding Respondent's care and treatment of a 30 year-old female patient ("JH"). The  
18 case was reviewed by a Medical Consultant (MC) to evaluate the medical records from a  
19 standard of care perspective.

20 4. On December 29, 2009, JH was seen by Respondent for chronic myalgias,  
21 neck pain and back pain. The patient reported current use of MSContin 15mg, but there  
22 were no past medical records to document prior treatment, diagnostic work up, or her  
23 report of current use of MSContin. During his initial visit with the patient, Respondent  
24 initiated MSContin, Oxycodone and Xanax with three refills. Respondent, however, did not  
25 review the Controlled Substance Prescription Monitoring Program (CSPMP) to verify

1 doses and/or urine drug testing to confirm the presence of reported prescription narcotic  
2 use.

3 5. On January 19, 2010, an early refill for MSContin and a new prescription for  
4 Dilaudid. Respondent also performed multilevel bilateral cervical facet injections without  
5 imaging, as well as cervical trigger point injections.

6 6. On February 9, 2010, JH received an early refill of MSContin and performed  
7 lumbar intraarticular facet and trigger point injections. Respondent did not document the  
8 patient's response to previous injections in terms of pain or function.

9 7. On March 9, 2010, Respondent provided prescriptions for MSContin,  
10 Oxycodone, and Xanax. Respondent also performed lumbar intraarticular facet and trigger  
11 point injections.

12 8. On March 26, 2010, Respondent provided early refills of MSContin and  
13 Oxycodone. Respondent also performed lumbar intraarticular facet and trigger point  
14 injections.

15 9. On April 23, 2010, Respondent provided a refill of MSContin and Oxycodone.  
16 Respondent did not document the response to previous injections.

17 10. On May 11, 2010, Respondent provided an early refill of MSContin and  
18 Oxycodone. Respondent did not see the patient again until December 3, 2010.

19 11. On December 3, 2010, Respondent provided Oxycodone for the patient. On  
20 December 20, 2010, Respondent gave the patient a prescription for Oxycodone, and  
21 performed a lumbar intraarticular facet and trigger point injections.

22 12. Respondent renewed the patient's Oxycodone prescription and performed  
23 the trigger point injections in January, February and April of 2011. Respondent did not  
24 document responses to previous injections. At the February and April visits, Respondent  
25 performed lumbar intraarticular facet injections with fluoroscopy as well.

1        13. With respect to patient JH, the standard of care prior to prescribing long term  
2 opioid medications for chronic non-malignant pain requires an appropriate evaluation of  
3 the pain problem including review of past medical records, and a rational initial opioid dose  
4 with consideration as to whether the patient is opioid tolerant.

5        14. Respondent deviated from the standard of care by prescribing long term  
6 opioid medications in his care and treatment of patient JH in the absence of any past  
7 medical records or verification of current opioid dosage or tolerance.

8        15. With respect to patient JH, the standard of care when prescribing controlled  
9 substances for chronic non-malignant pain requires a physician to monitor for efficacy and  
10 adverse effects, and to closely monitor for, recognize, and follow up on problems  
11 suggestive of noncompliance or aberrant drug seeking.

12        16. Respondent deviated from the standard of care by failing to recognize and/or  
13 failing to investigate the reason for frequent early narcotic refills by patient JH.

14        17. With respect to patient JH, the standard of care prior for performing facet  
15 related procedure requires appropriate evaluation, examination, diagnostic work up, and to  
16 document improvement in symptoms, function and exam prior to proceeding with repeat  
17 injections.

18        18. Respondent deviated from the standard of care by providing cervical and  
19 lumbar facet injections in the absence of review of records for prior work up, treatment or  
20 imaging and by repeating the facet injections on four occasions in his care and treatment  
21 of patient JH and by repeating the facet injections on multiple occasions without  
22 documenting improvement in symptoms, function or physical exam with previous injections  
23 in patient JH.

24        19. With respect to patient JH, the standard of care requires CT or fluoroscopic  
25 guidance when performing facet joint injections.

20. Respondent deviated from the standard of care by failing to use fluoroscopy for facet injections on four occasions.

21. The standard of care regarding scope of practice, performance of spinal injections, and fluoroscopy requires adequate formal training that meets the standards required for performance of spinal injections and use of fluoroscopy.

22. Respondent deviated from the standard of care regarding scope of practice, performance of spinal injections, and use of fluoroscopy in that he has had inadequate formal training to meet the standards required for performance of spinal injections and use of fluoroscopy.

23. Respondent's conduct caused harm by perpetuating drug seeking behavior evidenced by frequent early refill requests which were repeatedly granted.

24. The prescribing pattern has the potential harm of prescription drug abuse, prescription drug addiction, and accidental prescription drug overdose to include aspiration, brain damage, and death. Interventional pain management, including facet injections, by unqualified prescribers presents serious potential harm to patients, including persistent or worsened pain, bleeding, infection, nerve damage, brain damage, paralysis or even death.

25. According to Respondent, he has altered his practice in the area of pain management, to include refusal to provide opiate medication in the absence of past medical record verification and verification of current opiate dosage or tolerance, and close monitoring of actions suggesting non-compliance or drug-seeking behavior.

## CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27) (e) ("failing or refusing to maintain adequate records on a patient.")

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27) (q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public. ").

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand.
2. Respondent is prohibited from performing spinal injections.
3. Within thirty days, Dr. Gomez shall enter into a contract with a Board approved monitoring company to provide all monitoring services, at his expense. The monitoring company shall perform quarterly chart reviews during the first year of the Agreement, semiannually during the second year, and annually thereafter to determine whether Respondent is in compliance with the practice restriction. After three years, Dr. Gomez may petition the Board to request that the monitoring requirement be terminated.
4. The Board retains jurisdiction and may initiate new action based upon any violation of this Order.

DATED AND EFFECTIVE this April 5 day of April, 2013.

ARIZONA MEDICAL BOARD

By

  
Lisa S. Wynn  
Executive Director

**CONSENT TO ENTRY OF ORDER**

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

4. The Order is not effective until approved by the Board and signed by its Executive Director.

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the consent to the entry of

1 the Order. Respondent may not make any modifications to the document. Any  
2 modifications to this original document are ineffective and void unless mutually approved  
3 by the parties.

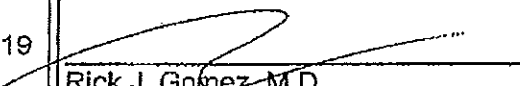
4 7. This Order is a public record that will be publicly disseminated as a formal  
5 disciplinary action of the Board and will be reported to the National Practitioner's Data  
6 Bank and on the Board's web site as a disciplinary action.

7 8. If any part of the Order is later declared void or otherwise unenforceable, the  
8 remainder of the Order in its entirety shall remain in force and effect.

9 9. If the Board does not adopt this Order, Respondent will not assert as a  
10 defense that the Board's consideration of the Order constitutes bias, prejudice,  
11 prejudgment or other similar defense.

12 10. Any violation of this Order constitutes unprofessional conduct and may result  
13 in disciplinary action. A.R.S. § § 32-1401(27) (r) ("[v]iolating a formal order, probation,  
14 consent agreement or stipulation issued or entered into by the board or its executive  
15 director under this chapter") and 32-1451.

16 11. *Respondent has read and understands the conditions of the practice*  
17 *restriction.*

18  
19   
20 Rick J. Gomez, M.D.

DATED: 3.4.13

21 EXECUTED COPY of the foregoing mailed  
22 This \_\_\_\_ day of \_\_\_\_\_, 2013 to:

23 Gordon Lewis  
24 Jones Skelton & Hochuli, PLC  
25 2901 N. Central, Suite 800  
Phoenix, 85012  
(Attorney for Respondent)

ORIGINAL of the foregoing filed

1 This 3<sup>th</sup> day of April, 2013 with:  
2 Arizona Medical Board  
3 9545 E. Doubletree Ranch Road  
4 Scottsdale, AZ 85258  
5 Mary Beber  
6 Arizona Medical Board Staff  
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